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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/237,099	01/25/1999	ROBERT D. GLASER	REALNET.001C	9619

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EXAMINER

VAUGHN JR, WILLIAM C

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 03/11/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/237,099

Applicant(s)

GLASER ET AL.

Examiner

William C. Vaughn, Jr.

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 16-21 and 30-48 is/are pending in the application.
- 4a) Of the above claim(s) 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-8, 16-21 and 30-48 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |                                                                                              |                                                                             |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:                                          |

## DETAILED ACTION

- I. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, 30-48 drawn to receiver establishing a data communication connection with a selected media server for computer to computer session and connection establishments and session connection parameter setting, classified in class 709, subclass 247.
  - II. Claims 16, 17, drawn to a client device selecting a change in the compression rate of the media data transferred over the communication link between a client device and server device, classified in class 709, subclass 228.
  - III. Claims 18-21, drawn to a proximate server map and a proximate server for communicating with a media server with a PC and data packet including a request message transmitted from a PC to a proximate server, classified in class 709, subclass 217 and 219.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention has a separate utility such as a receiver establishing a data communication connection with a selected media server for session, but lacks a proximate server map and a proximate server for communicating with a media for communicating with a server with a PC as well as a client device selecting a change in the

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compression rate of the media data transferred over the communication link between a client device and a server device. Invention II has a separate utility such as a client device selecting a change in the compression rate of the media data transferred over the communication link between a client device and server device, but lacks a receiver establishing a data communication connection with a selected media server for computer to computer session and connection establishments and session connection parameter setting as well as a proximate server map and a proximate server for communicating with a media server with a PC and data packet including a request message transmitted from a PC to a proximate server. Invention III has a separate utility such as a proximate server map and a proximate server for communicating with a media server with a PC and data packet including a request message transmitted from a PC to a proximate server, but lacks a receiver establishing a data communication connection with a selected media server for computer to computer session and connection establishments and session connection parameter setting as well as a client device selecting a change in the compression rate of the media data transferred over the communication link between a client device and server device. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. Group I search (Claims 1-8 and 30-48) would require use of search of class 709, subclass 247 (which would not be required for Groups II and III).
5. Group II search (Claims 16 and 17) would require use of search of class 709, subclass 228 (which would not be required for Groups I and III).
6. Group III search (Claims 18-21) would require use of search of class 709, subclasses 217 and 219 (Which would not be required for Groups I and II).
7. A telephone call was made to Applicant representative Steven Stewart on 10 March 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

9. Applicant is also reminded that in paper 5, the Applicant elected Group I, claims 1-8, 11-17 and 22 without traverse, in response to the restriction requirement (see papers 4 and 5). And that claim 29 was a part of a different Invention that was not selected.

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*Conclusion*


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-5:00, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Powell can be reached on (703) 305-9703. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9700.

WCV

WCV  
Patent Examiner  
Art Unit 2142  
March 10, 2003

  
MARK POWELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 210